

ORDINANCE NO. 20191-05-2012

AN ORDINANCE AMENDING SECTION 23.8 “NOISE” OF CHAPTER 23, “MISCELLANEOUS OFFENSES” OF THE CODE OF THE CITY OF FORT WORTH, TO AMEND THE NOISE ORDINANCE TO ADD DECIBEL LEVELS; TO ADD DEFINITIONS RELATED TO NOISE; TO SET MAXIMUM SOUND LEVELS BASED ON ZONING CATEGORIES; TO REGULATE AMPLIFIERS IN THE RIGHT OF WAY; TO RESTRICT ANIMAL NOISE; TO ALLOW EXCEPTIONS, PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION AND NAMING AN EFFECTIVE DATE.

WHEREAS, it is the policy of the City of Fort Worth to minimize the exposure of citizens to excessive noise and to protect, promote and preserve the public health, comfort, convenience, safety and welfare; and

WHEREAS, it is the intent of the City to control the level of noise in a manner which promotes commerce; protects the sleep and repose of citizens; promotes the use, value and enjoyment of property; and preserves the quality of the environment; and

WHEREAS, it is desirable to address common noise complaints caused by repetitive and excessive noise by adding maximum decibel levels and by adding restrictions on noise from animals and from amplifiers in public right-of-way;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

SECTION 1.

Section 23.8 “Noise” is amended to repeal the language contained therein and replace with revised language, to read as follows:

Sec. 23-8. Noise

(a) General Provisions.

1. *Scope.* This Section applies to the control of all sound and noise within the City of Fort Worth.
2. *Overview.* This Section is designed to regulate noise by various alternative means in order to allow the enforcement of noise regulations at times when and by persons for whom noise meters are not available. A noise may be in violation of this Section because it is disturbing to a reasonable person of ordinary sensibilities or because it

exceeds the decibel level restrictions provided below. If a noise violates more than one of these provisions, the violation will be enforced under whichever provision is most applicable to the situation as determined by the enforcement officer of the City.

(b) Definitions.

Ambient noise shall mean the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

A-Weighting (dBA) shall mean the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A) or dBA.

Bounding real property line shall mean an imaginary line at the ground and its vertical extension which separates the real property owned or occupied by one person from that owned or occupied by another person.

Decibel (dBA) shall mean the unit of measurement for sound pressure at a specified location.

Governmental function shall mean work conducted by a governmental entity in the interest of the community.

Sound level shall mean the instantaneous sound pressure level measured in decibels obtained by the use of a sound level meter set for A-weighting on slow integration speed, unless otherwise noted.

Residential shall mean: property zoned for residential use in accordance with the City's zoning ordinance

Unreasonable noise shall mean:

- (1) Any unreasonably loud, disturbing, and unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof; or
- (2) Any noise of such character, intensity and continued duration, which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities.

(c) Restrictions on Decibel Levels.

- (1) Maximum sound levels. During the times and in the zoning districts (except for activities originating in industrial zoning districts) set out below, the activities that create a sound pressure level on the complainant's bounding real property line that exceeds the maximum allowable sound level (dBA) below are declared to be public nuisances:

All **residential** (one-, two- and multi-family) zoning districts:

Daytime: 7 a.m. to 10 p.m. = 70 dBA
Nighttime: 10 p.m. to 7 a.m. = 60 dBA

All **non-residential and mixed-use** zoning districts (excluding industrial zoning districts) outside “H” Central Business District and “TU” Trinity Uptown:

Daytime: 7 a.m. to 10 p.m. = 80 dBA
Nighttime: 10 p.m. to 7 a.m. = 70 dBA

“H” Central Business District, “TU” Trinity Uptown, and West 7th Village (per attached map)

Sunday – Thursday
Daytime: 7 a.m. to 10 p.m. = 80 dBA
Nighttime: 10 p.m. to 7 a.m. the following day = 70 dBA

Friday – Saturday
Daytime: 7 a.m. to 2 a.m. the following day = 80 dBA
Nighttime and Sunday: 2 a.m. to 7 a.m. = 70 dBA

ALL zoning where ambient noise level exceeds the prescribed maximum level:

7 a.m. to 10 p.m. = Existing Ambient (dBA) + 3 dBA
10 p.m. to 7 a.m. = Existing Ambient (dBA)

(2) Method of noise measurement. Noise measurements shall be a minimum of 30 seconds in duration. Decibel levels are measured from the complainant’s property line. For residential districts adjacent to other districts (excluding industrial zoning districts), the residential decibel levels apply when measured from a residential complainant’s property line. Violations will be determined based on the highest registered reading in that measurement period. All measurement levels will be inclusive of any ambient noise that exists at the time of the measurement.

(d) Noise Prohibited.

(1) In addition to the other noise restrictions in this Section, no person shall make, cause, suffer, allow or permit unreasonable noise in such a manner, or with such volume, intensity or duration, so as to disturb a reasonable person of ordinary sensibilities. A decibel level shall not be required for the enforcement of this subsection.

(2) This subsection is intended to apply to, but is not limited to, unreasonable noises in the form of:

- a. Amplifiers in Public ROW and on City Property. The use of a bullhorn, loudspeaker, or other amplification is prohibited in the public right-of-way and on City of Fort Worth property, unless permitted as an exception below.

Exceptions:

- i. Public safety official while performing their duties.

- ii. Persons with an Outdoor Event Permit as described in Section 20-405 of the City Code.
 - iii. Persons with permission from pertinent City department director or designee.
- b. Animals. It shall be unlawful to keep, or to permit the keeping of, any dog(s) or rooster(s) or any other bird or animal that creates any bark, cry, crow, or other sound on a frequent, repetitive or continuous basis for ten (10) minutes or longer.
- c. Construction Work. Noise created by construction work within three hundred (300) feet of an occupied residential structure involving the erection, excavation, demolition, alteration, or repair of any building, structure, or flatwork is prohibited as follows:

Before 7:00 a.m. or after 8:00 p.m. Monday-Friday

Before 9:00 a.m. or after 8:00 p.m. Saturday-Sunday

- d. Solid Waste Collection. Noise created by solid waste haulers within three hundred (300) feet of residential zoning before 6:00 a.m. or after 11:00 p.m. is prohibited, unless a waiver is granted to the waste hauler by the Director of Code Compliance or his designee in accordance with the Grant of Privilege issued by the City to the waste hauler.
- e. Music. The playing of any music or musical instrument in such manner or with such volume or bass, particularly during the nighttime hours described in Section (c) Restrictions on Decibel Levels above, as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of residence.
- f. Horns or other signal devices. The continued or frequent sounding of any horn, air horn, or signal device on any vehicle except as a danger or warning signal; the creation by means of any such signal device of any unreasonably loud or harsh noise for any unnecessary and unreasonable period of time.
- g. Operation of motor vehicles. The revving of any engine, the playing of any music with such volume or bass, or the operation of any vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, jarring, rattling, or squealing noise or vibrations.

(e) Exemptions.

The following acts and sounds shall be exempt from the requirements of this Section:

- 1. Noise generated due to normal building conditioning and ventilation and property maintenance.
- 2. Noise generated on public and school property, as permitted by the property owner.
- 3. Noise generated by an Outdoor Event that is permitted as described in Section 20-405 of the City Code.
- 4. Noise generated by amplifiers at entertainment venues having a capacity of 1,000 or more persons within "TU" Trinity Uptown.
- 5. Noise generated by any governmental body and its contractors in the performance of a governmental function.
- 6. Noise generated by airport, railway and vehicular transportation.

7. Noise produced by gas drilling and production, which is regulated by the Gas Drilling Ordinance in Chapter 15 of the City Code.
8. Noise generated at Texas Motor Speedway.

(f) Enforcement.

The provisions of this section shall be enforced primarily by the Police Department and Code Compliance Department.

(g) Penalties.

1. A person commits an offense if the person makes noise in violation of this Section.
2. An offense under this Section is punishable by a fine of not more than Five Hundred Dollars (\$500.00).
3. Each occurrence of a violation, or, in the case of multiple violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.
4. A violation of this Section is a nuisance. The prosecution of an offense under this Section does not limit the City's right to abate the nuisance, including the use of injunctive or other civil relief.

SECTION 2.

That this ordinance shall be cumulative of all other ordinances of the City of Fort Worth, Texas, and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 3.

That all rights or remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil and criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 6.

That the City Secretary of the City of Fort Worth, Texas, is hereby directed to publish this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by the V.T.C.A. Local Government Code Subsection 52.013.

SECTION 7.

This ordinance shall take effect after adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: Melinda Romo
Assistant City Attorney

Adopted: May 1, 2012

Effective: 5/12/12

City of Fort Worth, Texas

Mayor and Council Communication

COUNCIL ACTION: Approved As Amended on 5/1/2012 - Ordinance No. 20191-05-2012

CONTINUED FROM A PREVIOUS WEEK

DATE: Tuesday, April 10, 2012

REFERENCE NO.: G-17568

LOG NAME: 06NOISE ORDINANCE

SUBJECT:

Adopt Ordinance Amending Section 23.8 "Noise" of Chapter 23, "Miscellaneous Offenses" of the Code of the City of Fort Worth to Add Decibel Levels, Add Definitions Related to Noise, Set Maximum Sound Levels Based on Zoning Categories, Regulate Amplifiers in the Right-of-Way, and Restrict Animal Noise (ALL COUNCIL DISTRICTS)

RECOMMENDATION:

It is recommended that the City Council adopt the attached ordinance amending Section 23.8 "Noise" of Chapter 23, "Miscellaneous Offenses" of the Code of the City of Fort Worth to add decibel levels, add definitions related to noise, set maximum sound levels based on zoning categories, regulate amplifiers in the right-of-way, and restrict animal noise.

DISCUSSION:

On September 13, 2011, the City Council received an Informal Report about proposed changes to the City's noise ordinance. During the fall and winter of 2011 to 2012, Staff reached out to community groups and held a public meeting on January 23, 2012. The attached ordinance incorporates public comments received to date.

The primary purpose of the ordinance is to address common noise complaints caused by repetitive and excessive noise by adding maximum decibel levels based on zoning districts and by adding restrictions on noise from animals and from amplifiers in public right-of-way.

FISCAL INFORMATION / CERTIFICATION:

The Financial Management Services Director certifies that this action will have no material effect on City funds.

FUND CENTERS:

TO Fund/Account/Centers

FROM Fund/Account/Centers

CERTIFICATIONS:

Submitted for City Manager's Office by:

Fernando Costa (6122)

Originating Department Head:

Randle Harwood (6101)

Additional Information Contact:

Dana Burghdoff (8018)